



## 2007 ASSEMBLY BILL 70

February 13, 2007 – Introduced by Representatives BENEDICT, MUSSER, BERCEAU, GUNDERSON, ALBERS, POCAN and TURNER, cosponsored by Senators SULLIVAN, ROESSLER, LASSA and S. FITZGERALD. Referred to Committee on Labor and Industry.

1     **AN ACT to amend** 59.26 (8) (a), 59.52 (8) (a), 60.37 (1), 62.13 (4) (c), 62.50 (2), 63.05  
2           (1) (intro.), 63.25 (1) (intro.), 111.31 (1), 111.31 (2), 111.31 (3), 111.321, 119.04  
3           (1), 230.25 (1m) and 230.25 (1n) (a) (intro.); and **to create** 66.0509 (6), 111.32  
4           (12g), 111.32 (15), 120.12 (27) and 230.25 (1h) of the statutes; **relating to:**  
5           employment discrimination based on veteran status and employment of  
6           veterans in the state civil service, local government, and school districts.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, no employer, labor organization, licensing agency, employment agency, or other person may refuse to hire, employ, admit, or license an individual, bar or terminate an individual from employment, membership, or licensure, or discriminate against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment on the basis of membership in the national guard, state defense force, or any reserve component of the military forces of the United States or this state.

This bill prohibits an employer, labor organization, licensing agency, employment agency, or other person from refusing to hire, employ, admit, or license an individual, barring or terminating an individual from employment, membership, or licensure, or discriminating against an individual in promotion, in compensation, or in the terms, conditions, or privileges of employment on the basis of veteran status, which is defined in the bill for purposes of that prohibition as the status of having

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served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the state defense force, in the national guard of any state, or in a reserve component of the military forces of the United States or of this state.

Under current law governing classified positions in the state civil service, including classified positions at the University of Wisconsin, whenever such a position is to be filled, the administrator of the Division of Merit Recruitment and Selection in the Office of Employment Relations must certify the names of individuals who are eligible to fill the position. In determining the number of names to certify, the administrator must use statistical methods and personnel management principles that are designed to maximize the number of certified names that are appropriate for filling the position. In addition, the administrator must certify the names of those individuals whose examination scores and veterans preference points equal or exceed the lowest score of any person certified on the basis of an examination only. (Currently, veterans or certain veterans' spouses may receive preference points to add to their examination scores for classified civil service positions.) The only limitation on certifying the names of individuals with veterans preference points is that the number certified may not exceed the number certified on the basis of an examination only.

This bill eliminates the restriction on the number of names of individuals who may be certified on the basis of the additional veterans preference points and, instead, requires the administrator to certify the name of any veteran whom the administrator determines is qualified to fill the position.

The bill also requires a school board and a political subdivision (a city, village, town, or county), or a subunit, instrumentality, or agency of a political subdivision (subunit), to ensure that every veteran who seeks employment with the school district, political subdivision, or subunit and who is determined by the school board, political subdivision, or subunit or its designee to be qualified for the position sought, is granted an interview for the position. This provision applies to political subdivisions without regard to whether they currently have a civil service system that provides preference points to veterans.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 59.26 (8) (a) of the statutes is amended to read:
- 2           59.26 (8) (a) In any county with a population of less than 500,000, the board,
- 3 by ordinance, may fix the number of deputy sheriffs to be appointed in that county
- 4 at not less than that number required by sub. (1) (a) and (b) and may set the salary

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1 of those deputies. Subject to sub. (10) and s. 66.0509 (6), the board may provide by  
2 ordinance that deputy sheriff positions be filled by appointment by the sheriff from  
3 a list of all persons with the 3 highest scores for each position based on a competitive  
4 examination. Such competitive examinations may be by a county civil service  
5 commission or by the division of merit recruitment and selection in the office of state  
6 employment relations at the option of the board and it shall so provide by ordinance.  
7 The division of merit recruitment and selection in the office of state employment  
8 relations shall, upon request of the board, conduct such examination according to the  
9 methods used in examinations for the state civil service and shall certify an eligible  
10 list of the names of all persons with the 3 highest scores on that examination for each  
11 position to the sheriff of that county who shall, subject to sub. (10), make an  
12 appointment from that list to fill the position within 10 days after he or she receives  
13 the eligible list. The county for which such examination is conducted shall pay the  
14 cost of that examination. If a civil service commission is decided upon for the  
15 selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent  
16 with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision  
17 governing minimum compensation of the commissioners. The ordinance or an  
18 amending ordinance may provide for employee grievance procedures and  
19 disciplinary actions, for hours of work, for tours of duty according to seniority and for  
20 other administrative regulations. Any board provision consistent with this  
21 paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy  
22 sheriff position by promotion, the sheriff shall, subject to sub. (10), make the  
23 appointment to the position from a list of 3 deputy sheriffs who receive the highest  
24 scores in a competitive examination. Such competitive examinations may be by a  
25 county civil service commission or by the division of merit recruitment and selection

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1 in the office of state employment relations at the option of the board and it shall so  
2 provide by ordinance.

3 **SECTION 2.** 59.52 (8) (a) of the statutes is amended to read:

4 59.52 (8) (a) ~~The Subject to s. 66.0509 (6), the~~ board may establish a civil service  
5 system of selection, tenure and status, and the system may be made applicable to all  
6 county personnel, except the members of the board, constitutional officers and  
7 members of boards and commissions. The system may also include uniform  
8 provisions in respect to classification of positions and salary ranges, payroll  
9 certification, attendance, vacations, sick leave, competitive examinations, hours of  
10 work, tours of duty or assignments according to earned seniority, employee grievance  
11 procedure, disciplinary actions, layoffs and separations for just cause, as described  
12 in par. (b), subject to approval of a civil service commission or the board. The board  
13 may request the assistance of the department of administration and pay for such  
14 services, under s. 16.58.

15 **SECTION 3.** 60.37 (1) of the statutes is amended to read:

16 60.37 (1) GENERAL. The town board may employ on a temporary or permanent  
17 basis persons necessary to carry out the functions of town government including,  
18 subject to sub. (4), any elected officer of the town. ~~The Subject to s. 66.0509 (6), the~~  
19 board may establish the qualifications and terms of employment, which may include  
20 the residency of the employee. The board may delegate the authority to hire town  
21 employees to any town official or employee.

22 **SECTION 4.** 62.13 (4) (c) of the statutes is amended to read:

23 62.13 (4) (c) For the choosing of such list the board shall adopt, and may repeal  
24 or modify, rules calculated to secure the best service in the departments. These rules  
25 are subject to s. 66.0509 (6), and shall provide for examination of physical and

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1 educational qualifications and experience, and may provide such competitive  
2 examinations as the board shall determine, and for the classification of positions  
3 with special examination for each class. The board shall print and distribute the  
4 rules and all changes in them, at city expense.

5 **SECTION 5.** 62.50 (2) of the statutes is amended to read:

6 62.50 (2) CONTROL OF APPOINTMENTS. ~~No~~ Subject to s. 66.0509 (6), no person may  
7 be appointed to any position either on the police force or in the fire department of the  
8 city, except with the approval of the board.

9 **SECTION 6.** 63.05 (1) (intro.) of the statutes is amended to read:

10 63.05 (1) (intro.) If an appointing authority in any county with a commission  
11 under ss. 63.01 to 63.16 learns that a vacancy has occurred or is about to occur in any  
12 position in the classified service in his or her department, the appointing authority  
13 shall notify the director of personnel of the vacancy. The appointing authority shall  
14 include with the notice of the vacancy a recommendation as to whether the vacancy  
15 should be filled by promotion, reduction or reinstatement of a named individual  
16 employee from any county department or from an eligible list established under s.  
17 63.08. The director of personnel, with the approval of the commission and subject  
18 to s. 66.0509 (6), may:

19 **SECTION 7.** 63.25 (1) (intro.) of the statutes is amended to read:

20 63.25 (1) (intro.) The rules mentioned in ss. 63.18 to 63.53 are subject to s.  
21 66.0509 (6) and shall provide among other things for the following:

22 **SECTION 8.** 66.0509 (6) of the statutes is created to read:

23 66.0509 (6) (a) In this subsection:

24 1. "Appointing authority" means the individual or entity that selects an  
25 individual as an employee of a local governmental unit.

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1           2. "Local governmental unit" means a city, village, town, or county, or a subunit,  
2 instrumentality, or agency of any of the foregoing.

3           (b) An appointing authority shall ensure that every veteran, as defined in s.  
4 230.03 (14), who seeks employment with a local governmental unit and who is  
5 determined by the local governmental unit, or its designee, to be qualified for the  
6 position sought, is granted an interview for the position.

7           **SECTION 9.** 111.31 (1) of the statutes is amended to read:

8           111.31 (1) The legislature finds that the practice of unfair discrimination in  
9 employment against properly qualified individuals by reason of their age, race,  
10 creed, color, disability, marital status, sex, national origin, ancestry, sexual  
11 orientation, arrest record, conviction record, ~~membership in the national guard,~~  
12 ~~state defense force or any other reserve component of the military forces of the United~~  
13 ~~States or this state~~ military status, veteran status, or use or nonuse of lawful  
14 products off the employer's premises during nonworking hours substantially and  
15 adversely affects the general welfare of the state. Employers, labor organizations,  
16 employment agencies, and licensing agencies that deny employment opportunities  
17 and discriminate in employment against properly qualified individuals solely  
18 because of their age, race, creed, color, disability, marital status, sex, national origin,  
19 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~  
20 ~~national guard, state defense force or any other reserve component of the military~~  
21 ~~forces of the United States or this state~~ military status, veteran status, or use or  
22 nonuse of lawful products off the employer's premises during nonworking hours  
23 deprive those individuals of the earnings that are necessary to maintain a just and  
24 decent standard of living.

25           **SECTION 10.** 111.31 (2) of the statutes is amended to read:

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1           111.31 (2) It is the intent of the legislature to protect by law the rights of all  
2 individuals to obtain gainful employment and to enjoy privileges free from  
3 employment discrimination because of age, race, creed, color, disability, marital  
4 status, sex, national origin, ancestry, sexual orientation, arrest record, conviction  
5 record, ~~membership in the national guard, state defense force or any other reserve~~  
6 ~~component of the military forces of the United States or this state~~ military status,  
7 veteran status, or use or nonuse of lawful products off the employer's premises  
8 during nonworking hours, and to encourage the full, nondiscriminatory utilization  
9 of the productive resources of the state to the benefit of the state, the family, and all  
10 the people of the state. It is the intent of the legislature in promulgating this  
11 subchapter to encourage employers to evaluate an employee or applicant for  
12 employment based upon the employee's or applicant's individual qualifications  
13 rather than upon a particular class to which the individual may belong.

14           **SECTION 11.** 111.31 (3) of the statutes is amended to read:

15           111.31 (3) In the interpretation and application of this subchapter, and  
16 otherwise, it is declared to be the public policy of the state to encourage and foster  
17 to the fullest extent practicable the employment of all properly qualified individuals  
18 regardless of age, race, creed, color, disability, marital status, sex, national origin,  
19 ancestry, sexual orientation, arrest record, conviction record, ~~membership in the~~  
20 ~~national guard, state defense force or any other reserve component of the military~~  
21 ~~forces of the United States or this state~~ military status, veteran status, or use or  
22 nonuse of lawful products off the employer's premises during nonworking hours.  
23 Nothing in this subsection requires an affirmative action program to correct an  
24 imbalance in the work force. This subchapter shall be liberally construed for the  
25 accomplishment of this purpose.

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1           **SECTION 12.** 111.32 (12g) of the statutes is created to read:

2           111.32 (12g) “Military status” means membership in the state defense force,  
3 national guard of any state, or any other reserve component of the military forces of  
4 the United States.

5           **SECTION 13.** 111.32 (15) of the statutes is created to read:

6           111.32 (15) “Veteran status” means the status of having served on active duty  
7 under honorable conditions in the U.S. armed forces, in forces incorporated as part  
8 of the U.S. armed forces, in the state defense force, in the national guard of any state,  
9 or in a reserve component of the military forces of the United States.

10          **SECTION 14.** 111.321 of the statutes is amended to read:

11          **111.321 Prohibited bases of discrimination.** Subject to ss. 111.33 to 111.36,  
12 no employer, labor organization, employment agency, licensing agency, or other  
13 person may engage in any act of employment discrimination as specified in s. 111.322  
14 against any individual on the basis of age, race, creed, color, disability, marital  
15 status, sex, national origin, ancestry, arrest record, conviction record, membership  
16 ~~in the national guard, state defense force or any reserve component of the military~~  
17 ~~forces of the United States or this state~~ military status, veteran status, or use or  
18 nonuse of lawful products off the employer’s premises during nonworking hours.

19          **SECTION 15.** 119.04 (1) of the statutes is amended to read:

20          119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
21 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
22 115.345, 115.361, 115.38 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07,  
23 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162,  
24 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245,  
25 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and

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1 (15) to ~~(26)~~ (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35),  
2 (37), (37m), and (38), 120.14, and 120.25 are applicable to a 1st class city school  
3 district and board.

4 **SECTION 16.** 120.12 (27) of the statutes is created to read:

5 120.12 **(27)** EMPLOYMENT OF VETERANS. Ensure that every veteran, as defined  
6 in s. 230.03 (14), who seeks employment with the school district and who is  
7 determined by the school board or its designee to be qualified for the position sought  
8 is granted an interview for the position.

9 **SECTION 17.** 230.25 (1h) of the statutes is created to read:

10 230.25 **(1h)** After certifying names under subs. (1), (1g), and (1m), the  
11 administrator shall certify the name of every veteran whom the administrator  
12 determines is qualified to fill the position.

13 **SECTION 18.** 230.25 (1m) of the statutes is amended to read:

14 230.25 **(1m)** After certifying names under sub. (1), additional names shall be  
15 certified in rank order of those who with the combination of veterans preference  
16 points awarded under s. 230.16 (7) and examination score earn a total score equal  
17 to or higher than the lowest score of those certified on the basis of examination only.  
18 ~~The number of veterans or spouses of veterans added to the list may not exceed the~~  
19 ~~number of names certified under sub. (1).~~

20 **SECTION 19.** 230.25 (1n) (a) (intro.) of the statutes is amended to read:

21 230.25 **(1n)** (a) (intro.) After certifying names under subs. (1), (1g), (1h), and  
22 (1m), the administrator may engage in expanded certification by doing one or more  
23 of the following:

24 **SECTION 20. Initial applicability.**

